

Notice under Section 91 of the Localism Act 2011

15th February 2021

Entry of known as The Inn, Freshford, including its garden, outbuildings and car park into Bath & North East Somerset Council's List of Assets of Community Value

1. Background

On **15th December 2020**, Bath & North East Somerset Council received a nomination under Section 89 of the Localism Act 2011 ("the Act") to list **The Inn, Freshford** as an Asset of Community Value. The nomination was made by **Freshford Parish Council**. A map setting out the boundaries of the asset nominated to be listed ("The Asset") is provided as an Appendix to this notice.

Under Section 87 of the Act the Council must maintain a list of assets of community value.

Section 88 of the Act states that

- (1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—
 - (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
 - (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

- (2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—
 - (a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
 - (b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

Under Section 89 of the Act, the Council can only enter assets into the list of Assets of Community Value in response to community nomination.

2. Decision-Making Process

The Council's Cabinet on October 10th 2012 resolved to agree that:

2.1 Decision-making in response to nominations for entry into the List of Assets of Community Value under the Localism Act 2011 be delegated to the Director for Partnerships and Corporate Services (and, in the event of this Director having a conflict of interest, to a Director nominated by the Corporate Director), drawing on the decision-making guidance as set out in Appendix One (of the report)

2.2 The Director for Partnerships and Corporate Services be delegated decision-making with regard to updating this guidance, in consultation with the Council Leader, in response to experience of implementing the provisions, new regulations and emerging case law

2.3 The internal review process in relation to listing be undertaken by a Director not involved in the initial decision

2.4 The Director for Property Services be delegated to make arrangements relating to the procedures following listing, including moratorium and compensation provisions, as set out in Appendix Two (of the report)

In accordance with this decision, the Director for Partnerships and Corporate Services has now fully considered the nomination in light of the Act and the Assets of Community Value (England) Regulations 2012 ("the Regulations"). Following this consideration, the Director for Partnerships and Corporate Services has decided to enter the property into its list of Assets of Community Value.

This decision has been taken because:

(1)

- a) The Asset lies within the administrative boundaries of Bath & North East Somerset Council and the parish of Compton Martin
- b) **Freshford Parish Council** is entitled under 89(2)b)(iii) of the Act to make a community nomination in respect of the Asset
- c) The nomination from **Freshford Parish Council** includes the matters required under Regulation 6 of the Regulations
- (d) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations

and

(2) in the opinion of the Authority,

- (a) The actual current use of the Asset that is not an ancillary use furthers the social wellbeing and interests of the local community;
- (b) Given that the Asset remains fit for purpose to further the social interest and social wellbeing of the local community, and considering also that there are examples of similar and comparable assets serving these interests, it is realistic to think that the current non-ancillary use of the Asset will continue to further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

The detailed assessment on which this decision is based, following the criteria adopted by the Council Cabinet on 10th October 2012, and fully considering information supplied by the nominee and other parties (including the owner), is set out in 4 below.

3. What Happens Next

The Asset will now be placed on the list of Assets of Community Value which the Council is required to maintain under Section 87 of the Act.

In accordance with Section 91 of the Localism Act the Council will send this notice to:

- **The owner of the property**
Freshford Parish Council

The information will also be published on the Council's website. The Asset will remain on the Council's List of Assets of Community Value for a period of five years from the date of this notice unless removed with effect from some earlier time in accordance with the provisions of the regulations.

The Localism Act 2011 requires that the Council draw particular attention to the following:

- (a) the consequences for the land and its owner of the land's inclusion in the list, and
- (b) the right to ask for review

The consequences for the land and its owner of the land's inclusion in the list

Inclusion of assets on the List of Assets of Community Value is a local land charge under the Local Land Charges Act 1975. The Council is required under Schedule 4 of the Regulations to apply to the Land Registry for a restriction to be added to the registered title of the land that "no transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene Section 95(1) of the Localism Act 2011".

Under Section 95 of the Act an owner must notify the Council (at the following address: Director, Property Services, Lewis House, Manvers Street, Bath BA1 1JG) if they wish to enter into a relevant disposal (as defined in Section 96 of the Act) of that asset. Some types of disposal of listed assets are exempt and these are set out in full in Annex A of the document Community Right to Bid: Non-statutory advice note for local authorities. Annex A also identifies circumstances where, although there is no requirement in the legislation that the owner has to explain to the local authority that the disposal is exempt, it would be helpful for them to do so.

A moratorium period is triggered by notification under Section 95 to allow a Community Interest Group to submit a written request to be treated as a potential bidder for the asset. The owner is advised to refer to Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal advice if they wish to dispose of the asset. A disposal of listed land which contravenes the Regulations and Act will be ineffective.

The owner of the asset does not have to sell the asset to the Community Interest Group. There is also a 'protected period' (18 months from the time that the owner notified the local authority of their intention to dispose of the asset) and during this time there can be no further moratoriums on sale and the owner is free to dispose of the property as they see fit.

The right to ask for review

Asset owners have the opportunity to request a review of the decision to enter an asset on the List of Assets of Community Value, within 8 weeks of listing. The internal review process in relation to listing will be undertaken by a Director not involved in the initial decision.

Landowners wishing to request a review of the decision should do so in writing to the above address or to assets@bathnes.gov.uk by **12th April 2021**, setting out the grounds for review and whether they are requesting an oral hearing.

Private owners may claim compensation for loss and expense incurred through the asset being listed including a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period. Regulation 14 of the Regulations contains more detail on this.

Part 5, Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations provide further detailed information.

4. Detailed Assessment of the Nomination of The Inn at Freshford, The Hill, Freshford Bath BA2 7WG, as an Asset of Community Value

Assets of Community Value Nomination – Assessment			
DATE OF SUBMISSION:	15/12/2020	DATE DECISION TO BE MADE BY:	15/02/2021
NOMINATED ASSET:	<p>The Inn at Freshford, The Hill, Freshford Bath</p> <p>The boundary of the asset is set out in the boundary map attached as an Appendix</p>		
NOMINATION SUBMITTED BY:	Freshford Parish Council		

STEP A: This section considers the eligibility of the nominating body to make a nomination and of the asset to be an Asset of Community Value. It does this through a series of YES/NO ANSWERS

A1. Is the nominating organisation an eligible body to nominate?	
Evidence supplied by nominee:	Selina Jobson, Clerk to the Parish Council Freshford Parish Council 51 Tynning Road, Winsley BA15 2JN
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and any comments:	YES - The Council is satisfied that the nominating body is an eligible body to nominate.

A2. Does the nominating body have a local connection to the asset nominated?	
Evidence supplied by nominee:	The submitted map shows that the asset is sited wholly within

	the boundaries of Bath and North East Somerset.
Feedback from other parties and other information gained in relation to this criterion	None
Score (YES/NO) and any comments:	YES- The Council is satisfied that the nominating organisation has a local connection to the nominated asset.

A3. Does the nomination include the required information about the asset? <ul style="list-style-type: none"> • Description of the nominated land including its proposed boundaries • Names of current occupants of the land • Names and current or last-known addresses of all those holding a freehold or leasehold estate in the land 	
Evidence supplied by nominee:	<p>A plan of the nominated land including proposed boundaries.</p> <p>The name and address of the current owners of the nominated asset have been provided.</p>
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and any comments:	<p>YES- the Council is satisfied that the nomination has included the required information about the asset.</p> <p>The application was submitted fully completed and acts as a follow on application to the previously successful application that was listed on 10th February 2016.</p>

A4. Is the nominated asset outside of one of the categories that cannot be assets of community value (as set out in Schedule 1 of the Assets of Community Value (England) Regulations 2012): <ul style="list-style-type: none"> • A residence together with land connected with that residence • Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 • Operational land as defined in section 263 of the Town and Country Planning Act 1990. 	
Evidence supplied by nominee:	Nomination and supporting evidence sufficiently demonstrates that the asset is outside of the categories of assets within Schedule 1 of the Regulations
Feedback from other parties and other information gained in relation to this	None

critterion:	
Score (YES/NO) and any comments	YES- the Council is satisfied that the nomination is outside of one of the categories that cannot be assets of community value

If YES to all of Part A, move on to Step B. If NO to one or more parts, please inform the nominator that the nomination is ineligible. Place nomination on list of unsuccessful nominations.

STEP B: This section considers the current or recent usage of the asset. It does this through a YES/NO answer and an identification as to whether the use is current or in the “recent past”

<p>B1. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?</p> <ul style="list-style-type: none"> NOTE 1: A working definition of “recent past” is “within the past three years” NOTE 2: A working definition of “non-ancillary” is that the usage is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional or complementary use. 	
<p>Evidence supplied by nominee:</p>	<p>The Inn at Freshford is a public house and has been so for over 300 years. It has been ascribed a construction date of 1713 on the basis of a date stone attributed to Anthony Methuen in its main elevation. It is thought that from that time the Inn provided accommodation for travellers and stabling for horses though later records suggest that it became an alehouse with no accommodation offered.</p> <p>The Inn is a Grade II Listed Building and is situated within the Freshford & Sharpstone Conservation Area (B&NES, 2007). As an historic building it is also a 'Heritage Asset' as understood by Section 12 of the <i>National Planning Policy Framework</i>. On the 18th March 2014 development was permitted following a submitted proposal to form 8 rooms with ensuite for use as bed and breakfast accommodation.</p> <p>At the time of submitting the original Asset of Community Value application, the Inn was continuing to serve alcohol but no meals were being provided. In answer to enquiries, the owners said that that the kitchen had been closed to allow for the building work to take place to provide the permitted 8 rooms for B&B accommodation. Members of staff had been made redundant and there was local concern that that latest development pointed to underlying difficulties as to whether the Inn would continue to function as a public house providing food.</p> <p>Since that time the Inn has been reinvigorated with new tenants taking on the Tenancy and firmly establishing the Inn as a well-regarded, popular and successful village Inn providing food and refreshment.</p>

	<p>So far as the PC aware some works, but not all, have been undertaken in pursuance of the development permitted in March 2014.</p> <p>For many years the Inn has been recognised as a key village facility and its beautiful location has made it an ever popular destination for local people and for the many visitors and tourists to the area.</p> <p>In addition to the large bar room and restaurant area on the ground floor, the Inn has as a room on the first floor which has been used extensively over the years for meetings. For example:</p> <ul style="list-style-type: none"> • Until the closure of the kitchen, local residents of the age of 60 or over ('The Inn Crowd') had been meeting and lunching monthly. These lunches were well attended with an average of 20 or so people turning up on a regular basis. • Jazz and folk evenings were for many years an integral part of the monthly attractions offered by the pub and were well attended. • Meetings of the Heart of Wessex Rail Partnership (community volunteers from the villages on the Bristol to Weymouth line). http://www.heartofwessex.org.uk/ • Meetings of Avon Local Council's Association. (ALCA) • Half yearly meetings between Highways England and the Highways Group of the Valley Parishes Alliance: http://www.valleyparishesalliance.org.uk/ • Throughout the course of the preparation of the Neighbourhood Plan the upstairs room of the Inn was used frequently by the various groups charged with the responsibility of developing the Plan. <p>In preparing this submission the current tenants confirmed that the pub is still well used by over 20 community groups, including:</p> <ul style="list-style-type: none"> • Walking Clubs • Woodland Trust • Angling Club • Foragers Club • Parish Council • Boaters Association • Local Business Association • Mums of Freshford • Dads of Freshford • Freshford United FC
Feedback from other parties and other information gained in relation to this	None

critereon:	
Score (YES/NO) and any comments:	YES- the current usage which is the subject of the nomination is an actual and non-ancillary usage.

If the current or recent usage that is the subject of the nomination is actual and non-ancillary, go to Step C. If not, place on the list of unsuccessful nominations.

STEP C: This section considers whether the use furthers (for current uses) or furthered (for uses in the recent past) the social interests or social wellbeing of the local community. It does this through a series of questions scored on the basis of evidence.

<p>C1. Who benefits from the use?</p> <ul style="list-style-type: none"> • Does it meet the social interests of the community as a whole and not simply the users/customers of the specific service? • Who will lose if the usage ceases? 	<p>Evidence provided by nominee</p>	<p>The Inn at Freshford is an important part of the social fabric of the local community of Freshford and Limpley Stoke allowing a wide range of people to meet and socialise, both as customers and as a community. It is the one pub now existing in the village and for many living in the community it can be readily accessed by foot.</p> <p>For years The Inn has provided both temporary and permanent work opportunities for local people, particularly the young. Its location will take on added value when the proximate current development of Freshford Mill (24 units of new housing) is completed. Taking account also of the Pipehouse development (10 units of housing) the population of Freshford is expected to increase by some 10% in the coming years.</p> <p>The location of the Inn provides local people, visitors and tourists alike with a welcome point from which to explore on foot or by bicycle, this area of outstanding natural beauty. Since the introduction of The Freshford Bulletin published by the Parish Council three times a year, successive managers of the Inn have contributed articles to The Bulletin in which they have drawn attention to specific events being hosted at the Inn and, with equal emphasis, have made clear that they see the Inn as being at the heart of the community and making a full contribution to it.</p> <p>Wrote the tenants in 2018 in The Bulletin “we have loved being part of the village community and getting to know so many of the residents. Thank you for all the support and lovely feedback.”</p>
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		<p>The negative consequences of losing this community asset would be:</p> <ul style="list-style-type: none"> • An irreplaceable loss of social health and wellbeing, particularly among the older sections of the community. • Other than the Galleries Shop, the loss of the one remaining freely accessible public meeting place. • The need to travel by car or bus to locations further afield. <p>Since the last submission there has been an increase in employment at the Inn, with up to 20 local people now working there on a full-time or part-time basis. This number reflects the growing popularity of the pub over the last few years. The Inn also has an important role in supporting local trade and retail suppliers.</p>
	Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)	
	Enter score out of 25 and rationale	<p>22/25</p> <p>The case that is set out a good level of support that is provided by the pub to the community across the parish and the surrounding area. The loss of this venue would have negative consequences.</p>
C2. Is any aspect of the usage actively discouraged by the Council's Policy and Budget Framework?	Evidence provided by nominee	No. The Freshford and Limpley Stoke Neighbourhood Plan is in conformity with the B&NES Council's Policy and Budget Framework.
	Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)	None
	Enter score out of 25 and rationale	25/25

		<p>No aspect of the land or buildings usage is actively discouraged by B&NES Council's Policy & Budget Framework.</p>
<p>C3. Why is the usage seen as having social value in the context of the community on whose behalf the nomination is being made?</p>	<p>Evidence provided by nominee</p>	<p>The Inn at Freshford is the one remaining public house in the community of Freshford and Limpley Stoke. The social value of a village pub is one recognised by Government, by B&NES Council and by both local people and visitors from far and wide.</p> <p>The Tenants are intent on:</p> <ul style="list-style-type: none"> • Raising the profile of the Inn - Bath In Bloom Gold Award (2017), Gold Award South West in Bloom (2019), Britain's 25 Finest Summer Pubs (2018) Sunday Telegraph, Crumbs Award - Best Foodie Pub in Bristol and Bath. • Stimulating local demand and involvement – With events such as The Supper Club, Wine Tasting evenings, Folk by Candlelight, and through projects such as the Hedgehog House and Bugs Hotel. • Making best use of and promoting local produce on their menus. • Helping to maintain and improve the local environment by cutting back vegetation on the local footpath between The Inn and the Cross Guns at Avoncliffe and removing invasive balsam. <p>Whilst these initiatives reflect the ambitions of the current tenants, the range of activities undertaken demonstrates the important role that a central institution, such as The Inn, can have on adding activities of social value to the community.</p>
	<p>Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)</p>	<p>The Telegraph https://www.telegraph.co.uk/food-and-drink/pubs-and-bars/raise-glass-telegraphs-pub-year-2019-six-centuries-making/</p> <p>Trip Advisor https://www.tripadvisor.co.uk/Restaurant_Review-g1989211-d1516631-Reviews-The_Inn_at_Freshford-Freshford Bath Somerset England.html</p> <p>Facebook https://www.facebook.com/TheInnatFreshford/</p>

	Enter score out of 25 and rationale	<p>20/25</p> <p>The information provided clearly sets out the importance for retention of a community venue which serves the community.</p>
<p>C4. How strongly does the local community feel about the usage as furthering their social interests?</p>	Evidence provided by nominee	<p>The nomination states :</p> <p>As part of the Neighbourhood Plan process residents of the community made clear their view of the need to protect, sustain and enhance community assets.</p> <p>This included the Inn at Freshford. Evidence in support of this can be found in Appendix D1 attached to the Neighbourhood Plan - Freshford and Limpley Stoke Community Planning Workshop - Jan/February 2012.</p> <p>A questionnaire (Appendix D3 of the NP) was hand delivered to every household in the two villages asking everyone whether or not they agreed to the proposition to 'protect, sustain and enhance' community assets.'</p> <p>Replies were received from 513 residents. 92% were in favour, 2% against and a further 6% 'did not know'.</p> <p>The Covid Pandemic has brought into even sharper relief the need to sustain and to support The Inn. Given the present circumstances it has not proved possible to collect and collate up to date information on the strength of local feeling but it is the informed view of the Parish Council that residents continue to believe that the Inn furthers their social interests.</p> <p>We invite the Council to support the view of the Parish Council that the Inn at Freshford remains an important Asset of Community Value. Evidence is provided here to support the renewal of The Inn's current designation as an Asset of Community Value. Further, that the loss of the two pubs in Limpley Stoke heightens the need to sustain The Inn as an Asset of Community Value and to recognise its place in securing the social interests of the local community.</p>

	Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)	<p>Extract form the Minutes of the Meeting of Freshford Parish Council held remotely at 7pm on Monday 9 November 2020</p> <p>The listing of The Inn at Freshford as an Asset of Community Value (ACV) would expire in February 2021. To continue to be an ACV, a nomination form would need to be submitted by the Parish Council approximately 8 weeks ahead of the expiry date. Councillors supported the renewal of The Inn as an ACV. Cllr Stevens agreed to complete the form and to consider what evidence would be necessary to support the renewal application.</p>
	Enter score out of 25 and rationale	<p>10/25</p> <p>It was difficult to score this section any higher as there was a lack of new supporting evidence. It was understood how difficult it must currently be to collect this detail face to face.</p> <p>What would have improved the application would have been some individual subissions from community members.</p>
Total score:	77 /100	

If STEP C meets a minimum scoring of 55%, go to Step D

STEP D: This section considers whether it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

For assets such as this where the actual non-ancillary usage is a **current** one (see Step B above), 88(1) (b) of the Localism Act requires the Council to consider whether in the opinion of the local authority **it is realistic to think that there can continue to be non-ancillary use of the building or other land that will further (whether or not in the same way) the social wellbeing or social interests of the local community.**

This will be considered through the following tests:

- If the asset is considered to remain fit for purpose (under D1 below), then this is considered to be sufficient grounds for thinking that it is realistic to think that continuing use of the asset will further the social wellbeing or social interests of the local community identified in Step C above.
- If the building is not considered to remain fit for purpose under D1, then an additional Test (under D2 below) will be applied to determine whether the asset could be made fit for

purpose practically and within reasonable resource requirements and within timescales. The timescales to be applied for this to take place for assets with “recent usage” will be “within the next five years”.


D1. Has the building/land-take/space/legal requirement for this usage changed significantly since its initial use so that the asset is not fit for purpose?	
Evidence supplied by nominee:	NO
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and rationale	NO

If No to D1, place on register of Assets of Community Value, and do not go to D2. If Yes to D1, go to D2.

D2. Could the asset be made fit for purpose practically and within reasonable resource requirements and within timescales?	
Evidence supplied by nominee:	Not applicable
Feedback from other parties and other information gained in relation to this criteria:	Not applicable
Score (YES/NO) and Rationale:	Not scored as NO answer to D1 above

If yes to D2, place on register of Assets of Community Value. If no to D2, place on list of unsuccessful nominations.

RECOMMENDATION:	THAT THIS ASSET BE PLACED ON THE ASSETS OF COMMUNITY VALUE
REASON FOR DECISION	<p>(1)</p> <p>a) The Asset lies within the administrative boundaries of Bath & North East Somerset and Freshford Martin Parish.</p> <p>b) Freshford Parish Council is entitled under 89(2)b(iii) of the Act to make a community nomination in respect of the Asset</p> <p>c) The nomination from Freshford Parish Council includes the matters required under regulation 6 of the Regulations</p> <p>(d) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations</p> <p>and</p>

	<p>(2) in the opinion of the authority,</p> <p>(a) The current and recent use of the Asset that is not an ancillary use furthers the social wellbeing and interests of the local community</p> <p>(b) Given that the Asset remains fit for purpose to further the social interest and social wellbeing of the local community, and considering that there are examples of similar and comparable assets serving these uses, it is realistic to think that the current non-ancillary use of the Asset will continue to further (whether or not in the same way as before) the social wellbeing or social interests of the local community.</p>
Decision Taken by	 <p>David Trethewey Director Partnerships and Corporate Services Bath & North East Somerset Council</p>
Date	15 th February 2021